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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,840	10/29/2003	Takayuki Yajima	848075-0059	7845
29619 7590 10/12/2011 SCHULTE ROTH & ZABEL LLP ATTN: JOEL E. LUTZKER 919 THIRD AVENUE NEW YORK, NY 10022				
EXAMINER				
SABOURI, MAZDA				
ART UNIT		PAPER NUMBER		
2617				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/695,840

Applicant(s)

YAJIMA, TAKAYUKI

Examiner

MAZDA SABOURI

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-6, 17-23 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-6, 17-23 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/3/2011 has been entered.

Claim Objections

2. **Claim 23** objected to because of the following informalities: Claim 23 recites the second housing having the main display section. However claim 26 from which claim 23 depends on recites that the display section is on the first housing. Appropriate correction is required.

Response to Arguments

3. Applicant's arguments filed 8/3/2011 have been fully considered but they are not persuasive.

With respect to the pending claims, applicant argues that Finke-Anlauff and Metroka fails to teach 'a lock control section for rendering a part or all of said auxiliary operation section operative in the closed state, and inoperative in the opened state and a transition state' as recited in claim 26.

Examiner notes that while Finke-Anlauff and Metroka teach conventional flip phones that do not rotate in the manner shown in figures 9b-9d of Mizuta, their specific cited teachings are still applicable to Mizuta's cited teachings.

Finke-Anlauff is specifically cited for teaching the deactivation of auxiliary keys in the opened state and activating them in the closed state. In both Finke-Anlauff and Mizuta the main operating section (*see Mizuta, 102, fig 4a and Finke-Anlauff, 12, fig 2*) is accessible in the opened state, making the auxiliary keys unneeded in the open state. Furthermore, in both Finke-Anlauf and Mizuta the main operating sections are not accessible in the closed state making the auxiliary keys needed in the closed state. Finke-Anlauff's cited teachings provide a similar benefit (*energy savings by powering keys only when they are needed*) to Mizuta despite the difference in how the housings of the two phones rotate.

Metroka was cited specifically for defining the state of a device during its transition from fully closed and fully opened states, and not its teachings with respect to activating and deactivating keys.

Mizuta in view of Finke-Anlauff teaches deactivating auxiliary keys in the fully open state and activating auxiliary keys in the fully closed state. However these references fail to define the state of the device during its transition from fully closed to fully open.

Metroka cures this deficiency by defining a set point during the transition from fully opened to fully closed in which the device goes from opened to closed. Such a teaching would be very relevant to Mizuta because as can be seen in figure 9c of

Mizuta, the housings can actually be configured to temporarily remain in a transition period between the fully opened (*figure 9b*) and fully close (*figure 9d*).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 3-6, 17 and 26** rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0064758 (Mizuta et al.) in view of US 2002/0006815 (Finke-Anlauff) in view of US 4845772 (Metroka et al.).

As to claim 26, Mizuta teaches a portable terminal unit (500, fig 4a) comprising:

- A first housing (200, fig 4a) having a first surface (*surface on side of 200, fig 4A that doesn't have the main display 202*).
- A second housing (100, figs 4a) having a second surface (*surface on side having keys 102*).
- A coupling section (300, fig 4a) coupling the first housing and the second housing the coupling section permitting the first housing and the second housing to move with respect to each other between an opened state and a closed state, wherein the first surface and the second surface face each other in the closed state; (see figures 9b-9d),

- A state detecting section (113, *fig 6*) for detecting the opened/closed state;
- A display (202, *fig 4a*) provided on an opposite surface of the first surface;
- A main operation section (102, *fig 4a*) provided on the second housing;
- an auxiliary operation section (207, *fig 4a*) provided on a surface other than the first surface and the second surface;

What is lacking from Mizuta is "a lock control section for rendering a part or all of said auxiliary operation section operative in the closed state and inoperative in the opened state". Mizuta teaches that the auxiliary operation section is intended to be used in the closed (*closed/folded state as shown in fig 9d*) state (*see paragraphs 125 and 142*) but fails to teach deactivating the auxiliary operation section in the opened state and activating it in the closed state.

In a similar field of endeavor, Finke-Anlauff teaches a portable terminal unit that comprises a single display (4, *figs 1 and 2*), main operation section (10+11, *fig 2*) to be used in an open state, and an auxiliary operation section (9, *fig 2*) to be used in a closed state. Finke-Anlauff teaches that the auxiliary operation section is inoperative in the opened state but operative in the closed state (*see Finke-Anlauff, paragraph 19*).

It would have been obvious to one of ordinary skill in the arts at the time the invention was made to combine the teachings of Finke-Anlauff into those of Mizuta, to ensure efficient use of the portable terminal's battery power, by deactivating the auxiliary operation section when it is intended to be used.

What is lacking from Mizuta in view of Finke-Anlauff is the auxiliary operation section being inoperative in the transition state between opened and closed. As noted

above Finke-Anlauff teaches deactivating the auxiliary operation section during the fully open state and activating is when fully closed, but makes no mention of what state the terminal would be in between.

In a similar field of endeavor, Metroka defines the open state as a set point (45 degrees) in the transition from fully opened to fully closed (see *Metroka, column 3, lines 6-32*).

The teachings of Metroka define the state of the device when it is between a fully opened and fully closed state such as that seen in figure 9c of Mizuta, thereby removing ambiguity with respect to the open and closed state that may exist during this transition. Furthermore, the position shown in figure 9c of Mizuta when combined with Metroka would be defined as open as the angle from the fully closed position is greater than 45 degrees. In such a position it would make sense to deactivate the auxiliary keys (*Finke-Anlauff teaches deactivating the auxiliary keys in the opened state*) as the main operating section would be exposed in this position and the auxiliary keys would not be needed.

It would have been obvious to one of ordinary skill in the arts at the time the invention was made to combine the teachings of Metroka into those of Mizuta in view of Finke-Anlauff for the reasons mentioned above.

As to claim 3, Finke-Anlauff further teaches that the auxiliary operation section is operative when both housings of the portable terminal unit are in the closed state (*folded*) and inoperative when both housings are in other states than the closed state (*unfolded*) (see *Finke-Anlauff, figs 1 and 2 and paragraph 19*). This teaching provides

further detail to the teachings of Finke-Anlauff cited in the rejection of claim 1 above, therefor the motivation to use this teaching is the same as the one mentioned in the rejection of claim 26 above.

As to claim 4, Finke-Anlauff further teaches that the auxiliary operation section is inoperative when both housings of the portable terminal unit are in the opened state (*unfolded*) and operative when both housings are in other states than the opened state (*folded*) (*see Finke-Anlauff, figs 1 and 2 and paragraph 19*). This teaching provides further detail to the teachings of Finke-Anlauff cited in the rejection of claim 1 above, therefor the motivation to use this teaching is the same as the one mentioned in the rejection of claim 26 above.

As to claim 5, Mizuta further teaches that the device is a mobile radiotelephone (*see paragraph 160*).

As to claim 6, Mizuta further teaches that the device is a personal digital assistant (*see paragraph 160*).

As to claim 17, Mizuta further teaches wherein the auxiliary operation section is disposed on a side surface of the portable terminal in a longitudinal direction of the first housing (*see paragraph 159*).

6. **Claims 18, 19, 21 and 23** rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0064758 (Mizuta et al.) in view of US 2002/0006815 (Finke-Anlauff) in view of US 4845772 (Metroka et al.) as applied to claim 26 above and further in view of Official Notice taken by Examiner.

As to claims 18, 19 and 23, Mizuta further teaches wherein the auxiliary operation section can be disposed on a side surface of the portable terminal in a longitudinal direction of the first housing (*see paragraph 159*). But Mizuta in view of Finke-Anlauff in view of Metroka fails to teach the auxiliary operation section being disposed on an end portion of that side portion such that it would be in the vicinity of the connecting unit for connecting the first and second housing and not close to the main display section. Examiner takes Official Notice that it was well known in the arts at the time the invention was made to put side keys near an end portion of an upper housing such that they would be in the vicinity of a connecting unit for connecting a first and second housing.

It would have been obvious to one of ordinary skill at the time the invention was made to combine this well-known teaching into Mizuta in view of Finke-Anlauff in view of Metroka so as to put those side keys in a position that is easily accessible to the index fingers when holding the portable terminal unit.

As to claim 21, Mizuta in view of Finke-Anlauff in view of Metroka fails to teach the auxiliary operation section having a lever switch. Examiner takes official notice that lever switches were well known in the arts at the time the invention was made. Lever switches can be used in place of conventional keys in shutting on or off certain functions, or increasing or decreasing aspects of the terminals such as volume and backlight intensity.

It would have been obvious to one of ordinary skill in the arts at the time the invention was made to utilize lever switches in the portable terminal taught by Mizuta in view of Finke-Anlauff, for the reasons mentioned above.

7. **Claims 20 and 22** rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0064758 (Mizuta et al.) in view of US 2002/0006815 (Finke-Anlauff) in view of US 4845772 (Metroka et al.) as applied to claim 26 above and further in view of US 6839101 (Shima).

As to claim 20, Mizuta further teaches wherein the auxiliary operation section can be disposed on a side surface of the portable terminal in a longitudinal direction of the first housing (*see paragraph 159*). What is lacking from Mizuta in view of Finke-Anlauff in view of Metroka is wherein the auxiliary operation section being also disposed along the side of the second housing.

In a similar field of endeavor, Shima teaches side keys such as those taught by Mizuta being disposed along the side of a lower housing (*reads on the second housing of Mizuta, see Shima, figure 1a, element 103*).

It would have been obvious to one of ordinary skill in the arts at the time the invention was made to combine the teachings of Shima into those of Mizuta in view of Finke-Anlauff in view of Metroka so as to provide for a larger auxiliary operating section by providing more surfaces from which to put the auxiliary operating section on.

As to claim 22, Mizuta further teaches wherein the auxiliary operation section can be disposed on a side surface of the portable terminal in a longitudinal direction of the first housing (*see paragraph 159*). What is lacking from Mizuta in view of Finke-

Anlauff in view of Metroka is wherein the auxiliary operation section being also disposed on the side opposite to the side surface as well.

In a similar field of endeavor, Shima teaches side keys such as those taught by Mizuta being disposed along both sides of a given housing (*see Shima, figure 1a, element 103*).

It would have been obvious to one of ordinary skill in the arts at the time the invention was made to combine the teachings of Shima into those of Mizuta in view of Finke-Anlauff in view of Metroka so as to provide for a larger auxiliary operating section by providing more surfaces from which to put the auxiliary operating section on.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAZDA SABOURI whose telephone number is (571)272-8892. The examiner can normally be reached on Monday-Friday from 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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